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COMMISSION ON HUMAN RIGHTS
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Item 12 (a) of the provisional agenda

INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE: VIOLENCE AGAINST WOMEN

Written statement*/ submitted by the International Centre for Human Rights and Democratic Development, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. *200101188*

ENG

The Women's International War Crimes Tribunal 2000 on Japan Military Sexual Slavery

1. As we are entering the 21st century women all over the world are taking stock of their achievements over the past century and determining what still needs to be addressed in order for the whole of humanity to enter into this new century with a true sense of hope and resolve.

2. Beijing + 5 illustrated that principles ensuring women's equality and human rights for women are still difficult to win. However, we achieved much. The most important issue is to ensure that these principles are implemented at the international level and at the national levels. For this, we have to rely on the commitments of States who have signed the various declarations and conventions.

3. In December 2000, in Tokyo, the organizers of the Women's International War Crimes Tribunal on Japan Military Sexual Slavery reminded the State of its responsibilities. Organized by Asian women and human rights organizations and supported by international NGOs, the Tribunal's objectives were to shed light on the nature of the crimes committed against the "comfort women" of Asia and to identify steps to be taken by the Japanese government. It also aimed to end impunity for wartime sexual violence committed against women and to prevent such crimes in the future.

4. In the last decade, Asian women survivors of the Second World War began to break over 50 years of silence to demand an apology and compensation for the atrocities they suffered under Japanese Military Sexual Slavery during the wars in the 1930s and 1940s in the Asia Pacific region. The courage of many of these older women made it possible for other survivors to break away from isolation and humiliation and speak the truth in the hopes of obtaining justice before they passed away.

5. In seeking justice for themselves they raised the hope of current women war victims to expect that justice will also reach them. With justice comes dignity, regaining a sense of self and starting to be a useful citizen in one's community again. This is beneficial to all of society. Sexual violence against women is all too common even today and takes systemic proportion in times of war. The International War Crimes Tribunals for the Former Yugoslavia and for Rwanda have acknowledged that rape is an act of torture, an act of genocide, a war crime, a crime against humanity. Gender persecution has been properly taken into account in the rules and procedures of the International Criminal Court. However, to this day, whether in the ad hoc International War Crimes Tribunals or in national courts, sexual violence is all too rarely charged. Justice for "comfort women" holds the hope for justice for current crimes against women. The Commission should seek the opportunity of the Women's International War Crimes Tribunal Judgement to remind Japan to do the honourable thing and recognize its state responsibility.

6. This Tribunal was convened because of a denial of justice to "comfort women". The Summary of Findings presented on December 12, 2000 by the presiding Judge Gabrielle Kirk McDonald, former President of the International War Crimes Tribunal for the Former Yugoslavia, states that under general international law "a state is internationally responsible for any wrongful act that is attributable to it and that has done damage to then legitimate interests of

others. A state commits an internationally wrongful act when it acts in violation of an applicable rule of international law. The state of Japan has acted in violation of both its treaty obligations and obligations under customary international law. An act in violation of a state's international obligations but which is lawful under its internal law is not thereby rendered lawful in international law."

7. The Tribunal also noted that "Japan had violated treaty obligations including the 1907 Hague Convention Respecting the Laws and Customs of Law on Land, the 1921 International Convention for the Suppression of the Traffic in Women and Children, and the 1930 International Labour Organization (ILO) Convention Concerning Forced Labour. It is also violated norms of customary international law, including those prescribed in the 1907 Hague Convention and the 1926 Slavery Convention. Further, in the 1951 San Francisco Peace Treaty, Japan accepted the Judgement of the International Military Tribunal for the Far East (IIMTFE)."

8. The Tribunal recognizes that after the Second World War, Japan signed a number of treaties, including the San Francisco Peace Treaty, the Settlement between Netherlands and Japan, the Treaty on Basic Relations between Japan and the Republic of Korea, and the Agreement on the Settlement of Problems concerning Property and Claims Between Japan and the Republic of Korea. The Tribunal found that the Peace Treaties are not applicable in the current context as states cannot agree by treaty to waive the liability of another state for crimes against humanity.

9. Two reports stemming from this body have stated that abduction and systematic rape of women and girl children in the case of "comfort women" clearly constituted an inhumane act against the civilian population and a crime against humanity. The Special Rapporteur of the UN Sub-Commission on Military Sexual Slavery, Ms. Gay J. McDougall, in her 1998 report on Systematic rape, sexual slavery and slavery-like practice during armed conflict submitted (E/CN.4/Sub2/1998/13), concludes that the Japanese Government remains liable for grave violations of human rights and humanitarian law, violations that "amount in their totality to crimes against humanity." Prior to Ms. McDougall's report, the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, issue a 1996 report on her mission to the Democratic People's Republic of Korea, the Republic of Korea and Japan on the issue of military sexual slavery in wartime (E/CN.4/1996/53/Add.1). She recommended that Japan pay compensation to individual victims of Japanese military sexual slavery according to principles outlined by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms.

RECOMMENDATIONS

10. The Commission should seize the opportunity of the Women's International War Crimes Tribunal Judgement to remind Japan to do the honourable thing and recognize its state responsibility.

11. As stated by the Judges at the Women's War Crimes Tribunal in Tokyo on December 12, 2000: "The state of Japan's deliberate resistance to fully acknowledge its wrongdoing has perpetuated the shame and silence, inflicting indescribable pain upon the survivors and depriving them of the possibility of living in peace." Yet, as noted by the Judges, it is incumbent on the

Japanese government to "restore the dignity" of the survivors. We know of no greater promotion and defense of human rights than that of restoring human dignity to a victim.

12. The international community could not render a better service to the victims and to Japan than to accept the Final Judgement of the Women's War Crimes Tribunal as an official document of the 57th session of the United Nations Commission on Human Rights.

13. As we enter into the 21st century, women all over the world need a sign that States cannot only craft strong principles for women's equality but that they can also act on those principles. Giving the survivors of the comfort stations system a sense of justice is to give all women hope for the future.

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COMMISSION ON HUMAN RIGHTS
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EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS: ADAPTATION AND STRENGTHENING OF THE UNITED NATIONS MACHINERY FOR HUMAN RIGHTS

Written statement*/ submitted by the International Centre for Human Rights and Democratic Development, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. * 2 0 0 1 0 1 1 1 9 2 *

ENG

1. The Commission on Human Rights has made an important contribution to the protection of human rights by establishing special procedures. Over the last two decades the Commission has created an armoury of country-specific and thematic rapporteurs, experts and working groups to help it in its crucial task to protect and promote human rights. Though they have grown and developed in an *ad hoc*, rather than systematic way, the special procedures of the Commission have played an extremely important role in fact-finding, monitoring and reporting on human rights violations in countries around the world.

2. The United Nations human rights machinery is confronted with many and growing challenges. Human rights mechanisms have recently been under attack by some States which want to see then weakened and marginalized. In Vienna, the United Nations World Conference on Human Rights recognized "the necessity for a continuing adaptation of the UN's human rights machinery to the current and future needs in the promotion and protection of human rights"[1] and for better coordination of relevant activities. The *Vienna Declaration and Programme of Action* also underlined "the importance of preserving and strengthening the system of special procedures."[2]

3. It is essential that the ongoing review of the special procedures which was initiated by the Bureau of the 54th Commission provides an opportunity to strengthen and not to undermine the effectiveness, independence and credibility of the special procedures system.

4. Rights & Democracy welcomes the observation made by the Bureau in identifying that the aim of the review is to "enhance the capacity of the UN to promote and protect internationally recognized human rights and contribute to the prevention of their violation."[3] Rights & Democracy also strongly endorses the approaches taken by the Bureau that, to advance that purpose, it is important "to promote maximum depoliticization of the Commission's work by taking all possible measures to ensure that that its procedures are established and operate on the basis of the highest standards of objectivity and professionalism, free of influence from extraneous political and other considerations."[4]

5. The Commission on Human Rights should support this view, and governments should match this commitment by meaningful action to strengthen support for the Commission's special procedures for effective and fully independent action especially to protect human rights.

Strengthening the Mechanisms

6. The mechanisms of the Commission on Human Rights are unique among international human rights bodies because of their relative speed, efficiency, and their degree of political independence. Unfortunately, under the pretext of "streamlining" and "increasing efficiency", the independence of the special procedures has been under attack by countries which have

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[1] *Vienna Declaration and Programme of Action*, A/CONF.157/24, June 25, 1993, part II, A, paragraph 17.
[2] *Id.*, Part II, E, paragraph 95.
[3] *Report of the Bureau of the fifty-fourth session of the Commission on Human Rights submitted pursuant to Commission decision 1998/112*, E/CN.4/1999/104, Observation 1.
[4] *Id.*, Observation 2, paragraph 13.

themselves been examined by these mechanisms. In general, Rights & Democracy believes that these mechanisms should be strengthen not weakened. If necessary, the possibility of granting the High Commissioner authority to influence the Commission's agenda should be explored. In particular, to ensure that the work of these mechanisms is not curtailed in any way, Rights & Democracy makes the following recommendations:

(1) The United Nations system should continue its efforts to mainstream human rights and to ensure that the protection and promotion of human rights lie at the centre of its actions and programmes;

(2) Allocate more resources to support the work of the Commission's special procedures;

Limited resources have imposed serious constraints on the activities of special procedures, whose mandates cannot always be serviced as effectively and thoroughly as their importance would warrant. As noted by the High Commissioner in *her Annual Appeal 2001*, "while the number of special procedures mandates has grown, staffing and other resources to support the mandates have not increased in real terms, let alone proportionately to the increase in mandates."[5]

More resources are required by the Office of the High Commissioner for Human Rights (OHCHR) to provide the necessary backup and support required by the special procedures so mandate holders can respond to requests for action in a timely and effective manner. Such support is needed for travel, administrative work, research and training. These funds should come from the UN regular budgets. The UN System cannot be expected to mainstream human rights, as called for in the Secretary-General's report on UN reform, unless extra resources are made available.

(3) Provide Special Rapporteurs with the technical support, research assistant and basic communications facilities to effectively carry out their work and enhance their contacts with NGOs and States through field visits and reports;

(4) Help the mandates of the Special Rapporteurs gain more visibility in all regions of the world and facilitate information exchange and cooperation between the UN mechanisms, similar regional mechanisms and institutions as well as key regional NGOs.

Ensuring a Gender Perspective within the work of Special Procedures

7. An effective system for the protection of human rights is a system that also protects and promotes human rights of women. In general, a greater gender perspective in all Special Rapporteurs' work would enhance the effectiveness of the Special Procedures. Rights & Democracy believes this could be achieved by:

(1) Ensuring equal representation of women and men in all human rights mechanisms;

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[5] OHCHR, *Annual Appeal 2001: Overview of Activities and Financial Requirements*, p.25.

(2) Providing gender training for all Special Rapporteurs, treaty bodies and expert groups;

(3) Integrating the rights of women into all Special Rapporteurs and expert group reports;

(4) Including a gender advisor in fact-finding missions to ensure that women's rights are properly addressed.

8. In this respect, attention should also be put on the mandate of the Special Rapporteur on Violence Against Women (SRVAW). Progress was made on the question of violence against women, but there is still work that needs to be done in order to more effectively address this issue within the work of the UN special mechanisms. Rights & Democracy strongly believes that:

(1) Additional financial and human resources should be allocated to the SRVAW in order to fulfil her very broad mandate;

(2) Joint missions between the SRVAW and other Special Rapporteurs should continue to be encouraged by the OHCHR.

9. We urge the Commission on Human Rights to do everything in its power to ensure that more resources and support are made available for better servicing of the special procedures system.

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COMMISSION ON HUMAN RIGHTS
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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement*/ submitted by the Norwegian Refugee Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[19 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. *200101200*

ENG

A. REPUBLIC OF CROATIA

1. Organized return procedures arbitrarily deprive refugees of right to enter their own country. Under the organized return procedures, the Republic of Croatia through policy and individual decision deprives pre-conflict residents who are currently refugees in Serbia of the right to enter/return to their country through the imposition of arbitrary conditions, including current permanent residence in Croatia, Croatian citizenship, and accommodation. Citing the lack of current permanent residence, the Ministry for Public Works, Reconstruction and Construction together with the Ministry of the Interior denies the administrative applications for return submitted by refugees who possess Croatian citizenship documents as well as those who satisfy all conditions thereof but lack documents. The arbitrary nature of this condition for entry is made evident by Ministry of the Interior instructions issued in April 2000, which provide that for those persons who have lost their permanent residence, it can only be restored after return to Croatia.

Croatia also denies entrance to refugees who were pre-war residents but are now deemed to be foreigners under the Law on Croatian Citizenship, which includes a five-year residence requirement applicable only to non-ethnic Croats. Croatia also denies entrance to refugees who lack a place to live, including the owners of property occupied pursuant to government allocation and those who have lost occupancy rights pursuant to laws enacted and judicial verdicts entered during and after the armed conflict. The imposition of permanent residence, citizenship, and accommodation as conditions on refugees entering their own country violates the guarantee of Article 12, paragraph 4 of the International Covenant on Civil and Political Rights (hereinafter "ICCPR") that no one can be arbitrarily deprived of the right to enter his or her own country. All refugees should be permitted to enter Croatia, regardless of citizenship or current permanent residence, upon establishment of refugee status or 1991 residence.

2. Croatian Return Program – a) arbitrary deprivation of property and interference with home; b) denial of right to fair hearing and right to effective remedy; c) denial of equality before the law. The Croatian Program for the Return and Accommodation of Displaced Persons, Refugees, and Resettled Persons (hereinafter "Return Program") and the Amendments to the Law on Areas of Special State Concern (hereinafter "Amendments") allow occupants allocated private property by the government (including persons who are neither displaced nor refugees) to indefinitely defeat the owner's right to re-possess his or her property. Re-possession is conditioned upon government provision of alternative accommodation to the occupant. However, there is no time limit within which such accommodation must be provided. The alternative accommodation requirement unlimited by time or actual housing need results in an arbitrary deprivation of property in violation of Article 17, paragraph 2 of the Universal Declaration of Human Rights (hereinafter "UDHR") and arbitrary interference with one's home in violation of Article 17, ICCPR. Croatia should adopt a repossession scheme that upholds the right of ownership.

Under the Return Program, Croatia has eliminated the property owner's right to a judicial remedy for the government-authorized occupation of his or her property and delegated that right to an administrative body, the local Housing Commission. This procedure denies the right to a fair hearing guaranteed by Article 14, ICCPR as well as

that to an effective remedy guaranteed by Article 8, UDHR. Croatia should re-establish the owner's right to a judicial remedy for repossession of private property.

Croatia's property repossession mechanism is limited to citizens; refugees and internally displaced persons who have been unable to regulate their citizenship status are not permitted to use the repossession scheme. Similarly, non-citizen, non-resident property owners are not permitted to use the repossession scheme. The owners' original entitlement to the property was not predicated on citizenship. The limitation of property restitution to those with Croatian citizenship violates the principle of equality before the law enshrined in Article 26, ICCPR and conflicts with the decision of the Human Rights Committee in Simunek, Tuzilova and Prochazka v. Czech Republic. Croatia's repossession mechanism should be open to all owners, including non-citizen, non-resident owners.

Unlike Bosnia and Herzegovina and Kosovo, Croatia has not restituted occupancy rights that were eliminated by the 1995 Law on the Lease of Flats in the Liberated Territories or *in absentia* court decisions issued under the Law on Housing Relations during and following the armed conflict. This results in an arbitrary deprivation of property in violation of Article 17, paragraph 2, UDHR and arbitrary interference with one's home in violation of Article 17, ICCPR. Both the law, which terminated occupancy rights within 90 days of enactment without the right of appeal, and the court decisions entered without the occupancy right holder's knowledge and participation denied the right holder of the fair hearing guaranteed under Article 14, ICCPR and the effective remedy guaranteed by Article 8, UDHR.

Both the law and court decisions terminating occupancy rights were applied disproportionately to terminate the rights of ethnic Serbs who left their homes during the period of armed conflict, resulting in discrimination contrary to Article 26, ICCPR. The Return Program continues the effects of the law and judicial decisions, thus constituting a continuing violation of Article 26, ICCPR. Croatia should restitute or compensate stripped occupancy rights, the failure to do so preventing any significant return of the Serb minority to urban areas.

B. FEDERAL REPUBLIC OF YUGOSLAVIA EXCLUDING KOSOVO

1. Violation of freedom of movement of internally displaced persons. Internally displaced persons from Kosovo who have moved to Serbia proper are not permitted by local police authorities to change their permanent residence from Kosovo to Serbia proper. Such a refusal by local police violates the right of these internally displaced persons to freely move within their own state and to choose their place of residence in violation of Article 12, paragraph 1, ICCPR and well as Principle 14, GPID. Further, the refusal of police authorities to issue new identity documents with permanent residence in Serbia proper disadvantages internally displaced persons in the enjoyment and exercise of their legal rights, including employment and education, in violation of Principle 20, GPID. Serbia should issue all necessary documents to IDPs from Kosovo.

2. **Denial of equality before the law.** Yugoslavia prohibits by law the transfer of real property located in Kosovo. This prohibition of land transfers in one part of the country discriminates against property owners solely on the basis of the location of

their property in violation of Article 26, ICCPR. It also effectively denies freedom of movement and denies resettlement of internally displaced persons in another part of the country in violation of Article 12, paragraph 1, ICCPR and Articles 14 and 28, GPID. Serbia should repeal the legal prohibition of land transfers in Kosovo.

C. KOSOVO

1. **Denial of right to fair hearing and right to effective remedy.** More than one and one-half years into the UNMIK administration, civil remedies remain virtually non-existent and there is no forum where the lack of such remedies could be challenged. Through UNMIK Regulation No. 2000/47, UNMIK has removed jurisdiction from the local courts over claims against the United Nations administration and KFOR, vesting jurisdiction for such claims in as yet non-existent claims commissions. Persons injured by these quasi-governmental actors have no legal recourse in violation of the right to fair trial guaranteed by Article 14, ICCPR and the right to an effective remedy guaranteed by Article 8, UDHR. Mechanisms must be developed immediately whereby persons with legal claims against UNMIK and KFOR have access to fair trial and effective remedy rights.

UNMIK has also removed jurisdiction for property repossession from the local courts, vesting jurisdiction in the Housing and Property Directorate. While this body has begun to receive claims, more than one year after it acquired jurisdiction it has not yet begun to issue decisions restituting possession of occupancy rights and private property, suffering from a chronic lack of funding and resources. To the extent that property right holders, both inside and outside of Kosovo, continue to lack access to a property restitution procedure, their right to a fair hearing and effective remedy is denied. UNMIK must ensure that the Housing and Property Directorate receives the necessary financial resources to extend the property restitution mechanism to claimants inside Kosovo as well as internally displaced persons in Serbia proper.

2. **Requirement that Internally Displaced Persons Return to Kosovo to Obtain UNMIK Identity Documents.** Only persons physically present in Kosovo are included in the civil register and receive UNMIK identity documents. The requirement that persons who are internally displaced in Serbia outside Kosovo return and "re-establish" themselves in Kosovo in order to obtain UNMIK identity documents may hinder this population in the exercise of rights in Kosovo. Consistent with Principle 20, GPID, UNMIK should permit persons displaced from Kosovo to obtain UNMIK identity documents.

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COMMISSION ON HUMAN RIGHTS
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SPECIFIC GROUPS AND INDIVIDUALS: MASS EXODUSES AND DISPLACED PERSONS

Written statement*/ submitted by the Norwegian Refugee Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[19 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. * 2 0 0 1 0 1 1 2 3 8 *

ENG

The Positive Response by the Commission On Human Rights To The Guiding Principles On Internal Displacement Has To Be Matched By Concrete Implementation

1) Despite several years of increasing international attention, the number of internally displaced persons (IDPs) in the world continues to grow at an alarming rate while their protection and assistance needs often go unmet. National governments - both those experiencing crises of displacement and those willing to help - have to do more to improve access and ensure the rights of the internally displaced are fully respected. They can do that by taking positive steps to promote further implementation of the Guiding Principles on Internal Displacement.

2) In 1998 the UN Representative on Internal Displaced Persons, Mr. Francis Deng, presented the Guiding Principles to this Commission. Since then a number of key UN and regional bodies as well as international organizations have expressed their support for the Principles. This Commission as well as the General Assembly has adopted resolutions noting the usefulness of the Principles. The UN Inter Agency Standing Committee has called upon its members to apply the Guiding Principles in their fieldwork and at the same time has published and distributed extensive pedagogical tools to promote implementation at the ground level. Several regional bodies such as the Organization for Security and Co-operation in Europe (OSCE) and the Inter-American Commission on Human Rights have taken important steps to protect and assist displaced persons in the framework of the Guiding Principles.

3) Non-governmental human rights and humanitarian organizations are also making important and innovative use of the Principles. Some have used them as a yardstick to harmonize and improve national IDP legislation, others to measure and monitor the effectiveness of protection and assistance programmes aimed at IDPs. They are also being used by NGOs particularly the Norwegian Refugee Council in training activities to strengthen the response capacity of local governmental and non-governmental organizations.

4) While it is fair to say that the Guiding Principles have been well received by the international community and are being actively used by a wide range of organizations and actors, it is not enough! If the States represented in this forum are committed to improving protection and assistance to the internally displaced and wish to avoid future crises of internal displacement, they must take further steps to increase adherence to the Guiding Principles. Many governments faced with problems of internal displacement have already seen the usefulness of the Guiding Principles and are seriously trying to implement them. Unfortunately other States only pay lip service to the Principles, while some completely ignore them – to the detriment of their own displaced population.

5) The task at hand is therefore twofold. First we need to encourage all governments that adherence to the rights articulated in the Principles is not a threat to sovereignty but a means to strengthen it. Several times last year a number of States used various

international forums to question the legitimacy or the process in which the Guiding Principles were developed. This Commission therefore needs to strengthen the dialogue and understanding of the Principles in a way that promotes their positive and constructive use. From our perspective, with clarity and understanding, States that are truly interested in promoting the rights of the displaced cannot avoid recognizing the intrinsic worth of the Principles.

6) For those States who continue to intentionally abuse the rights of their citizens, the Commission must take a strong stand to ensure compliance to the standards articulated by the Guiding Principles. The Principles are derived from binding human rights and humanitarian law instruments. Many within the Commission are State Parties to those instruments. The Principles are also built upon customary law by which all States are bound. As in the case of binding legal instruments there are mechanisms in place to assess and monitor State Parties' compliance. In order to further integrate the Guiding Principles into existing international human rights monitoring mechanisms, the Commission should encourage all UN Country and Thematic rapporteurs, treaty bodies and human rights field offices to widen their use of the Principles as a yardstick to assess State behaviour.

7) From the point of view of civil society, those states that violate the rights of their internally displaced citizens should know they will increasingly be judged by their adherence to the Guiding Principles. They will be judged by their own citizens as awareness of the Principles continues to grow. And as experience of the past year has already shown they will be scrutinized by NGOs and other parts of civil society who are intent on improving the response to the internally displaced.

8) To conclude, as suggested by the Secretary General, governments should only enjoy the prerogatives of sovereignty as long as they fulfill their international obligations to their citizens. The international community's active promotion of the Guiding Principles should not be seen as a threat to sovereignty but a way to strengthen it and give it meaning. In order to move forward for those who need to understand the Principles, let them make an honest effort to do so. But let this Commission also move forward by making it more difficult for States that abuse the rights of the internally displaced to do so with impunity.

Recommendations:

1) The Guiding Principles should be further promoted, disseminated and used by UN agencies, international organizations and regional bodies.
2) In order to better understand country-specific displacement situations and enhance respect for the rights of the internally displaced, existing human rights machinery should investigate ways to improve human rights monitoring based on the Guiding Principles.
3) Governments should make full practical use of the Principles, including legislative reform, training of appropriate government officials, law enforcement agents and military personnel

4) Dissemination and training in the content and use of the Guiding Principles should focus not only on State authorities but also armed opposition groups.
5) National governments should incorporate human rights and humanitarian standards, including the Guiding Principles, into peace negotiations with such groups.

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COMMISSION ON HUMAN RIGHTS
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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement*/ submitted by Pax Christi International, International Catholic Peace Movement, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2001]

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GE. *200*64*

ENG

CUBA: FOREIGN INVESTMENT FUELS REPRESSIVE SYSTEM
BASIC ILO CONVENTIONS VIOLATED

Human Rights

The general human rights situation in Cuba did not improve in the year 2000. The penal code and other legal and institutional structures are instrumental in restricting basic human rights. Unless and until they are changed, it will always be possible to use them to support or justify human rights' violations. International human rights organizations like Human Rights Watch and Amnesty International denounced continuous practices of intimidation, harassment and short and long-term arrests. Reporters without Frontiers, as well as the Cuban independent press organization Union of Journalists, reported many cases of journalists who were being severely harassed or professionally silenced. During the first two months in particular, the country experienced a wave of repression during which 352 peaceful human rights activists were arrested. According to Human Rights Watch, at least 24 prisoners were executed in 2000. Pax Christi International calls for more international attention for the abuses and violations of human rights in Cuba. Denouncing the abuses and violations, we demand steps be taken to put an end to such violations.

Our movement calls for international support for the internal peaceful opposition like the coalition Todos Unidos (All United) that in January 16, 2001 publicly demanded that the Cuban government "release political prisoners; stop practices of persecution; respect the right to a fair trial; put an end to unjust and disproportional severe sentences; stop arbitrary detentions and solitary confinement; grant free access to public trials and refrain from all other acts that infringe basic personal rights."

Foreign Investment in Cuba and the violation of basic labour rights

In 1998, during his visit to Cuba, the Pope sent his famous call for the world to open up to Cuba and for the Cuban Government to open up to the world. The Cuban Government indeed opened up further and invited international capitalist investment with attractive conditions. Especially European investors responded positively to these efforts, and the Cuban economy now relies heavily on European investment. Two years later, in the year 2000, attention was given to foreign investment on Cuban society, with special focus on the application of the international labour conventions of the ILO.

Unfortunately, instead of being a force against Cuba's repressive policies, foreign investors actively encourage further human rights violations by their refusal to include best business practices to protect the rights of their Cuban employees. Furthermore, the influx of foreign currency has strengthened the Cuban regime. In exchange for their financial support, the Cuban Government has granted foreign investors extensive concessions, which allow them in the long-term to make a considerable amount of profit or at least to gain a foothold in Cuba before the US embargo is lifted. At the same time, foreign investors are obliged to enter into a joint venture with the Cuban State which, as principal shareholder, dictates the terms of the contract.

Although Cuba has ratified all ILO conventions, three out of the eight fundamental ILO conventions are being violated. These are the ILO conventions no. 87 (freedom of assembly and right to organise), no. 98 (right to organise and collective bargaining) and no. 111 (the right to non-discrimination in appointment). Under the conditions imposed on foreign investors by the Cuban State, the foreign entrepreneurs are not allowed to apply a large part of the international

labour rights to their personnel. Pax Christi International demands that the rights of all workers to bargain directly with employers over benefits, promotions and wages and the right to organise are respected and upheld.

Furthermore, the Cuban authorities have a prominent role in the selection, payment and dismissal of Cuban personnel employed by foreign investors. For example, the Cuban State supplies the foreign companies government-approved personnel and clearly violates the right to non-discrimination in appointment. Also, the Cuban State dictates the wages of the local personnel employed by foreigners and retains 90% of their salaries, leaving the Cuban worker with a minimum salary in Cuban currency. This is a clear violation of the right of workers to dispose freely of their salaries. And like all Cuban workers, they must be members of the state-controlled Cuban labour union CTC (Central de Trabajadores de Cuba). Those workers that belong or even associate to the independent and thus illegal unions are expelled from their jobs.

Although foreign investors in Cuba are quite aware that they should apply international labour standards, they accept the repressive measures of the Cuban regime to control the workers in their companies. By accepting these conditions, foreign investors become accomplices to the continuation of the human rights violations.

Foreign investment in combination with the Government's new economic policy caused a stratification of Cuban society and the dollarization of the economy. The comfortable political elite of Cuba is allowed to take advantage of the changing economy, while a vast majority of Cubans face exclusion, with the possible exception of those working in the tourist sector and to a limited extent, employees of foreign enterprises.

The independent Cuban organizations within civil society that demand respect for international labour rights and human rights are harassed, persecuted and imprisoned.

The unrestricted direct foreign investment in Cuba thus fuels the violations of human rights and relieves the need for reform. Consequently it becomes necessary for the international community to develop a common and pro-active strategy.

Pax Christi International calls on:

- The United Nations to again appoint a Special Rapporteur for Cuba and recommends a visit to the country by the UN High Commissioner for Human Rights.

- The United Nations to document and denounce publicly the violations of the human rights and international labour rights in Cuba and to express its international concern (in a resolution).

- All foreign entrepreneurs that invest in Cuba to apply international standards (such as the ILO conventions) to Cuban practice, and to press the Cuban authorities to do so. Foreign investors in Cuba are also requested to take best business practices as guidelines for their activities in Cuba, for example the "Arcos Principles", that were expressed by those who are actively involved in securing and defending the rights of workers.

- The international community to develop a common framework that demands basic internationally recognized human and labour rights. Canada, the European Union and the United States in particular should initiate a dialogue to work out a common position on foreign investment in Cuba, including respect for the ILO conventions.

- The European Union to keep up the spirit of the common position on Cuba. This common position has been the cornerstone of EU policy since 1996 and demands from Cuba fundamental reforms in exchange for increased economic cooperation. The national economic interests of the various EU countries should not prevail over the human rights situation of the Cuban people.

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: TORTURE AND DETENTION

Written statement*/ submitted by the Arab Organization for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 December 2000]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. *200101242*
ENG

BEST COPY AVAILABLE

report on the Khiam Detention camp

The committee duties after closing the KDC

In 1985 after occupying Southern Lebanon, the Israel; army built the Khiam Detention Camp. Boldly violating the human rights and the International Lows.

On the 23rd of May 2000, closing KDC and freeing 144 detainees has reviled to the whole world – the true horror and the torturing of the detainees which is beyond one's imagination in spite of all what was told and wrote about it.

During our visit to the KDC we heard unbelievable stories about the torture and the humiliation from the former detainees.

14 detainees were killed at the KDC under torturing 2000 hostages were held between it's walls and inside it's cells for short and long periods.

1000 citizens were held at the investigation centers at Tal El Nahas, the 17's center at Bent Jebail, Zazhleh and Hasbia.

Those detainees belonged to different societies different political parties from all Lebanon.

The infant Mohamed Al Ahmad is the youngest who was held with his mother for two month at the age of seven days.

Families with all of its members were held there as well as children, pregnant women and elderly.

As the Khiam Detention Camp from 1985 to 1987, beside torturing it was the starvation period no water, no electricity, no bathrooms.

Flea and flies spread carrying more diseases, some detainees drank their urine, ate paper and parts of their shoes to survive.

Such a load situation pushed the detainees to strike for 5 days.

An Israeli major called Yaghi who put many of the detainees at solitary cells and tortured them broke this strike.

In 1989 the detainees revolute again but this time two of them were killed Bialal Al Salman and Ibrahim Abou El Ezz.

Not only the Israeli occupying army held the citizens and tortured them, but it also forced them to do had labor in a clear violation of international deals.

In 1985 and just after the Lebanese National Resistance Forces blew up the traitor Lahd's radio station.

The Israeli army forced 35 detainees from KDC to remove the wreckage and put back the wire fence it was also the detainees who put the wire fence around the camp and fixed the building before the visit of the international committee of Red Cross to the camp in 1995.

It was also them who cleans the guards rooms and the bathrooms at the camp.

The testimonies of former detainees

Isam Awada:

I was arrested on the 17th April 85 and was released on the 25th May 2000.

The Israelis blew up my house put me in a helicopter threatening me that they well throw me out of it into the sea.

They also tied my hands and legs. Left me at the road between Alma El Shab and Naqoura and passed 6 tanks destroyers for 10 minutes.

Hassan Awada:

I was arrested on the 15th April 84 and was released on the 3rd Feb 94.

I was tortured cruelly and used to urinate immediately when I drink water.

In the KDC I recognized my father from his coughing.

N.M.

I suffered from bleeding for 3 years after I was raped with a stick, I was tortured with electricity chocks at sensitive parts of my body.

Milla Sofany

I was arrested on the 9th Nov. 85 and was released on Jan 87.

They rejected me with morphine, they subjected me to electric shocks at "Marjeaion's Hospital" they experiment 7 operations on me. Investigate me at the X-Ray room, shocked me with electricity on my wounds and burn with cigarettes.

Taisir Shaaban:

I was arrested on the 9th Dec 86 and was released on the 23rd May 2000. They forced me to take illusions pills and I was burn with cigarettes and held in a hutch with other detainees.

Mohammed Abdel Hassan Sroor:

I was arrested on the 29 Sep. 99 and was released on the 23 May 2000 they stringed me on a pole naked in winter under sun and rain they hit me with their shoes at my testis causing permanent damages.

Seliman Ramadan:

I was arrested on Sep. 85 and was released on the 23rd May 2000

I lost my leg when I was arrested all though I was bleeding they threw me at the ground kept me their for 73 days tide up with my face covered with black peace of fabric with rotten smell tortured by Israeli Major called Yaghi.

I was starved given only half a negg as a daily meal sot that I ate the tissues around my finger nails.

Cossite ibrahim:

I was arrested on the 2rd Sep 99 and was released on the 23rd May 2000.

I just had an operation when they arrested me I needed special medical treatment and diet which they engorged I was tortured and bleeded many times so they carried me to Marjeaon's Hospital for treatment many detainees were forced to confess that they weren't virgins in a way of torturing and threatening of range.

Najwa Samahat:

I was ... on the 1st Oct 99... 23 d May 2000 they used to address me with dirty expressions and subjected electric chocks spattered with water so that shock waves grew more intense I bleeded and suffered from forting.

They took me inside Israel and investigate me trying to force me to collaborate with them as a condition to set me and my husband and son free which refused to.

Ghassan Saeid

16.8.98 23 May. 2000

I was tortured beated with army shoes and with weapons at my back, eyes and head they also with cigarettes.

At the Khiam Detention camp

Detainees were tortured physically, mentally and securely

They were forced to hard labor injected with morphine stringed on a pole shocked with electricity used as experimental animals at Marjeon Hospital.

14 detainees died under torture many detainees are suffering from chronic diseases and some are even permanently disables.

Those violations are war crimes and Israel, must hold responsibility.

Khiam Detention camp was closed but nothing will shut the memories the suffering of the former detainees is still present and it will continue until and international court of justice trails the Israeli leaders and their pro-Israeli militia. As war criminals.

The committee duties after closing the Khiam Detention Camp:

- Documenting the former detainee's testimonies and rising it to all international communities.
- Presenting legal charges and demanding compensations from the Israelis
- Documenting the history of the KDC and translating it to different languages.
- Working on formation of an international court of justice to trail the Israeli leaders and present them as criminals of war.
- Documenting the Lahd's agents testimonies and charge them at a public international court.
- Arrange visits for the former detainees abroad so they can talk about their suffering.
- Labeling the Khiam Detention Camp as a morment for the Israeli crimes.
- Opening the Khiam Rehabilitation center.

- Considering the former detainees as national heroes and treating them as soldiers at the Lebanese army.
- Ensuring employment for the former detainees in administrations and public institutions.
- Supporting the fair case of the missing Lebanese and the Lebanese detainees at the Israeli Prisons.

What happened at the Khiam Detention Camp is one of the most dangerous violations of human rights and international lows.

We should work hard with others specially the human rights organizations and association to revile the violations and the crimes, which the Israeli Army and the collaborators are responsible.

We should work hard to from a public trail for the Israeli leaders and their pro-Israeli military and present them as war criminals.

Follow up committee for the support of the Lebanese detainees in the israeli prisons

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: TORTURE AND DETENTION

Written statement*/ submitted by Pax Christi International, International Catholic Peace Movement, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 January 2001]

*/ This written statement is issued, unedited, as received in English and French from the submitting non-governmental organization(s).

GE. * 2 0 0 * 0 * * 7 6 *

ENG

Question of the violation of civil and political rights, including the question of detention, of Kosovo Albanian prisoners in Serbia

Kosovo Albanian prisoners in Serbia

An estimated 800 Kosovo Albanians still remain in Serbian prisons, where they have been detained since June 1999. Some 600 of them are political prisoners, charged with terrorism or hostile activity against the state. The prisoners were frequently brutally beaten or tortured during the initial stages of detention. In their trials they were routinely denied the right to a fair trial. The democratic changes that took place in Serbia since the elections on 24 September and the "velvet revolution" of 5 October 2000 have not yet produced the promised correction of the miscarriages of justice as perpetrated against these Kosovo Albanian political prisoners.

The following takes into account the UN Security Council Resolution 1244/99, the European Parliament Resolution of 15 December 2000, the appeal of the French Presidency of the European Union of 29 December 2000 and of the Swedish Presidency of the European Union on 4 January 2001. It also builds on earlier initiatives of Pax Christi International: our International President, Msgr. Sabbah, Latin Patriarch of Jerusalem, appealed to President Kostunica and Foreign Minister Svilanovic of the Federal Republic of Yugoslavia on 19 December 2000. Along with this, Pax Christi's national sections in the course of the past 19 months have taken numerous initiatives.

The facts:
After the signing of the Military-Technical Agreement between Yugoslavia and NATO on 10 June 1999 (the Kumanovo Agreement) some 2,000 Kosovo Albanians were transferred from prisons in Kosovo to Serbia proper. Most of them were civilians who were unlawfully arrested by Serbian security forces during the war. According to information of, among others, Amnesty International, the majority of these prisoners were detained simply because they were ethnic Albanians, and not because they had participated in the armed conflict. Reportedly many prisoners were brutally beaten or tortured during the initial stages of detention.

Since then more than 1,100 of these Kosovo Albanian prisoners have been released after charges were dropped or sentences served. Large sums of money (reports of the Humanitarian Law Center in Belgrade mention sums of 10,000 to 30,000 German marks) was allegedly paid in many cases to secure their release.

As of January 2001, 19 months or longer since their arrest, still some 800 Kosovo Albanians remain in Serbian jails. Some 600 of them are political prisoners, charged with terrorism or hostile activity against the state. The remaining 200 are serving prison sentences for non-political crimes. They are either on trial, awaiting appeal, or have already had their appeals reviewed by the Serbian Supreme Court or the Military Supreme Court.

In their trials the Kosovo Albanian prisoners were routinely denied the right to a fair trial. According to Human Rights Watch and the Humanitarian Law Center who monitored the trials, there were often no court decisions for detention, access to lawyers was denied as were adequate facilities to prepare a defence. Courts sentenced Kosovo Albanians on the basis of forced confessions, and judges frequently refused the introduction of evidence that could have disproved the charges. The prosecution's primary evidence against those convicted was the highly unreliable and discredited "paraffin test," which checks for gunpowder on defendants' hands. One of the most flagrant cases was the mass trial in April-May 2000 in Nis of 143 Kosovo Albanians, sentenced to between seven and thirteen years imprisonment. The presumption of innocence was not respected and little attempt was made during the trial to establish the individual guilt of the accused. The case has been characterised by Amnesty International as "rubber stamp" justice.

From 1995 till 1999, Pax Christi facilitated a dialogue project between Serbian and Kosovo Albanian organisations, including the Independent Student Union of Pristina. As a representative of this Union, Albin Kurti participated in the dialogue. During a recent meeting with a Pax Christi representative, Albin Kurti - detained in the prison of Cuprija with a sentence of 15 years - advocated for the immediate and simultaneous release of all Albanian political prisoners in Serbia and the transfer of all non-political Kosovo Albanian prisoners to UNMIK-prisons.

The presidential elections in the Federal Republic of Yugoslavia and the democratic changes that took place in Serbia since 5 October 2000 have paved the way for the rule of law in the country. Newly elected Federal President Kostunica has promised that he will apply the Constitution and laws without delay.

A first positive step has been the release by President Kostunica of doctor and human rights campaigner Flora Brovina on 1 November 2000, as well as of ten other Kosovar Albanian prisoners who had been held without charge or trial for over 15 months.

However, the promised correction of the numerous other miscarriages of justice as perpetrated against Kosovo Albanian prisoners has not yet taken place. Since the readmission of the Federal Republic of Yugoslavia to the UN and the OSCE, the Federal Republic of Yugoslavia has not set a date for the release of the prisoners. Neither has the option of a presidential pardon been used, while according to the Yugoslav constitution and federal law, the Yugoslav president is empowered to pardon those indicted or convicted of federal crimes, such as hostile activity against the state and terrorism.

The Amnesty Bill, commissioned by President Kostunica, should be enacted into law as soon as possible. According to the Yugoslav Justice Minister Momcilo Grubac on 9 January 2001 the imminent Amnesty Law will cover offences included in the federal law, especially regarding acts against the Yugoslav Army and the constitutional order, with the exception of those crimes against humanity and international law. It is to be expected that this Amnesty Law will bring about the release of prisoners of conscience, conscientious objectors and deserters and the re-examination of unfair trials.

However, Minister Grubac added that the amnesty would not include terrorism, as this would be contrary to international conventions and the current struggle against terrorism in the world. This means that all those political prisoners charged with terrorism will have to go through the lengthy procedures of regular legal means.

Recommendations of Pax Christi International:

To the Serbian and Yugoslav authorities:

- President Kostunica should take all possible steps to secure the release of all political prisoners from the Milosevic era who are still detained in Serbian prisons. In concreto this would mean to release all political prisoners on the basis of the Amnesty Law soon to be enacted or by presidential pardon.
- As the imminent Amnesty Law appears to exclude terrorism, whereas most political prisoners have been charged with terrorism, an extensive presidential pardon should release all prisoners convicted on unsubstantiated political charges, especially on charges of so-called "terrorism".

To the International Community:

- The United Nations, the European Union, the OSCE as well as individual governments, should urge President Kostunica and the Serbian and Yugoslav governments to demonstrate their

commitment to the rule of law by reviewing the cases of Kosovo Albanian prisoners and releasing all those arrested or convicted on unsubstantiated political charges.

- The International Community should increase its support for the valuable work of the United Nations Human Rights High Commissioner Mary Robinson and the work of its Commission for Prisoners, Detainees and Missing Persons in Pristina.
- If all these measures won't lead to a release before the end of the present session of the United Nations Human Rights Commission, the International Community should consider a decision to link the continuation of financial assistance to the release of Kosovo Albanian prisoners.

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: DISAPPEARANCES AND SUMMARY EXECUTIONS

Written statement*/ submitted by Pax Christi International, International Catholic Peace Movement, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 January 2001]

*/ This written statement is issued, unedited, as received in English and French from the submitting non-governmental organization(s).

GE. *200 0 1 1 96 *

ENG

Question of the violation of human rights: civil and political rights, including the question of disappearances: missing persons from Kosovo (Serbs, Albanians and Roma)

Missing persons from Kosovo (Serbs, Albanians and Roma)

The facts:
Probably more than 3,000 persons from Kosovo are still missing, according to the information available to various national and international human rights organisations. These Kosovo Albanians, Serbs and Roma disappeared either during the war or in the post-war period.

The vast majority of the estimated 500-1,000 missing Serbs disappeared after the end of the war in a wave of violence as the newly empowered Albanians sought revenge for years of repression by the Milosevic government. While UNMIK and KFOR entered Kosovo and took responsibility for public security, the situation in Kosovo was so chaotic that data on missing persons, found bodies and other information from witnesses were not properly processed and probably lost. In the early period of international rule in Kosovo, the problem of missing non-Albanians was virtually ignored. As far as we know, not a single case of a missing Serb has been resolved so far. While family members are devastated by the uncertainty about the fate of their relatives, the public and political attention to the fate of missing persons is very small.

The change of power in Belgrade is having a positive impact on the efforts to clarify the fate of missing people. Yugoslav president Kostunica opened a special office to deal with missing people from Kosovo. Local Serbs co-operating with OSCE or UNMIK, now dealing with the question of missing people, are no longer called "traitors".

Along with the missing Serbs, according to ICRC, more than 2,700 Kosovo Albanians are also missing, most from the era of Serbian rule in Kosovo. A lot of Roma from Kosovo are known to have fled to Macedonia and Serbia, but many other Roma are still missing. Their fate is even more neglected than the one of missing Albanians and Serbs.

The longer it takes, the slimmer the chances of finding any missing persons -Serbs, Albanians or Roma - alive.

Recommendations of Pax Christi International:

To the Serbian and Yugoslav authorities:

- Both sides - the Albanian Kosovars and the new leadership in Belgrade - should start independent and impartial investigations into the fate of missing persons, both Albanian Kosovars, Serbs and Roma who disappeared during or after the Kosovo conflict. All existing information on their fate should be made available immediately to the United Nations Mission in Kosovo (UNMIK). If these missing persons are still alive, they should be released immediately.
  This could become a Confidence Building Measure, which would increase chances for establishing the right atmosphere needed for any meaningful process of Serbian-Albanian dialogue.

To the Kosovo Albanian political leaders:

- The Kosovo Albanian political leaders should undertake all possible efforts to clarify the fate of missing persons of whatever ethnic background.

- In case of the death of missing persons, the leadership should oversee the immediate handover of their remains to their families.
- The Kosovo Albanian political leaders should do whatever possible to assist bringing to justice the perpetrators of killing missing persons.

To the International Community:

- UNMIK, bearing the legal and moral responsibility for the territory under its jurisdiction in accordance to Resolution 1244/99, should shed light on the fate of all missing persons as soon as possible and prevent further violations of human rights. The United Nations, the European Union, the OSCE as well as the individual governments should give all possible assistance to this undertaking.
- The International Community should undertake, as soon as possible, all necessary steps in order to bring the perpetrators of unlawful killings of missing persons to justice.

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF: FREEDOM OF EXPRESSION

Written statement*/ submitted by Reporters without Borders-International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2001]

*/ This written statement is issued, unedited, as received in English, French and Spanish from the submitting non-governmental organization(s).

GE. *200 0 56*

ENG

CUBA

Harassment, exile, imprisonment
One hundred independent journalists face the State

Introduction

State control of published or broadcast information has not slackened in Cuba. At a time when their potential audiences are increasing owing to the Internet, about one hundred independent journalists, considered by the authorities to be *"counter-revolutionaries"*, are one of the main targets of repression.

Since 1997 five of them have been sentenced to between six months' and six years' imprisonment, and over one hundred arrests and cases of questioning have been reported. These journalists are frequently victims of accusations, attacks, seizure of equipment, house arrests, pressure on families, friends or contacts, and attempts to discredit or divide them. On 31 of january 2001, two are still jailed.

The relative respite from harassment of all "opponents" after the Pope's January 1998 visit lasted no more than a year. Attempts by several heads of state or government (at the Ibero-American Summit in November 1999 in Havana) to get the Cuban government to democratize the regime were fruitless. Freedom of expression, of the press and of association are still not established in Cuba[1].

Yet, despite the difficult conditions in which they work and the large numbers in voluntary or forced exile, the ranks of independent journalists continue to swell. According to the information collected by Reporters Sans Frontières (RSF), there are currently just over one hundred independent journalists in Cuba, as opposed to a handful in the early 1990s. Formerly with the official media (from which they resigned or were dismissed), the communication sector (editors, translators, archivists, librarians, etc.), the education world or simply technicians, they now work in Havana and in the provinces where police harassment is more intense.

Internet to the rescue

Whether they are experienced professionals, trained by their peers or self-taught, the possibilities open to independent journalists have widened owing to new technologies to which they themselves have no access. The creation in Western countries of Internet sites[2] which host the news they transmit from Cuba (mostly by telephone or fax, when they have one) has widened the scope for dissemination of news that cannot be published in their own country. The number of their contributions (by telephone) to foreign radio stations, usually linked to exiles, has also increased.

New "gagging law"

Promulgated in February 1999, the "88 Law" – soon nicknamed the "gagging law" in dissident circles – weighs like the Sword of Damocles over any person who *"collaborates, by any means whatsoever, with radio or television programmes, magazines or any other foreign media"* or *"provides information"* considered likely to serve US policy. The law provides for very heavy sentences: up to 20 years' imprisonment, confiscation of all personal belongings and fines up to 100,000 pesos (close to 4,800 dollars, while the average Cuban salary is 250 pesos or 12 dollars per month). This law, that no court has taken advantage of as yet, also provides for punishment for "the promotion, organisation or encouragement of, or the participation in meetings or demonstrations".

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[1] Article 53 of the Constitution recognises "citizens' freedom of speech and press", provided it is "consistent with the goals of the socialist society". In Articles 54 and 62 other freedom is subject to equally restrictive conditions.
[2] cubanet.org, nuevaprensa.com, BPIcuba.org, cubafreepress.org, are all hosted by a Cuban community in exile in the United States, and the site of the Inter-American Press Association, cuba.sipiapa.org.

Two journalists jailed
The five independent journalists who were tried and sentenced to jail since 1997 were not clearly charged for disclosing information without authorisation, but for other offences. Two are still behind bars. All are considered by Amnesty International to be prisoners of opinion.

Bernardo Arévalo Padrón: beaten up and in unauthorised exile
35-year-old Bernardo Arévalo, founder of the news agency *Linea Sur* in October 1996 in Aguada de Pasajeros (a town 140 km south-east of Havana, in Cienfuegos province) was arrested on 18 November 1997. He was sentenced by the appeal court on 28 November to six years' imprisonment for "insulting" President Fidel Castro and Vice-president Carlos Lage, by virtue of Article 144 of the Cuban penal code. This former railway worker had said on a foreign radio station that two Cuban leaders were *"liars"*, after accusing them of not meeting democratic commitments made during a Ibero-American Summit.

Manuel Antonio González Castellanos : from provocation to the "graveyard of the living"
Manuel Antonio González Castellanos, aged 43, is a professional journalist and correspondent for the agency *Cuba Press* in Holguín in eastern Cuba. On the evening of 1 October 1998 he was on his way home, where his mother, the daughter of Lidia Doce's, the famous "messenger of the Che" during the revolution, also lives, when he was shouted at and insulted by an Interior ministry official and two state security agents. The journalist lost his temper and ended up holding Fidel Castro personally responsible for such incessant harassment. Manuel Antonio González Castellanos was immediately accused of "insulting" the president. On 6 May 1999 he was sentenced to 31 months in jail.

Arrests and confiscation
The police try more and more often to prevent independent journalists from covering "sensitive" events. Reporters are either arrested (more than 30 of these detentions, which sometimes last several days, have been reported in the year 2000) or are placed under house arrest. On 21 July 2000, for example, the day of the trial (set the day before) of two opponents in Santiago, **Luis Alberto Rivera Leyva**, director of the APLO *(Agencia de prensa libre oriental)* was arrested at his home and released only after the hearing. When these arrests take place the accused are systematically threatened and their equipment is often confiscated.

Attempts to discredit and pressure on families
30 independent journalists suddenly became known in Cuba on 1 November 1999 just before the Ibero American Summit in Havana, when President Fidel Castro cited the name of each of them on two national television channels. They were ridiculed and accused of visiting the US Section of interests in the capital on the occasion of an evening farewell reception organised for the director.

The families or friends of journalists are also victims of reprisals. Countless spouses, brothers or sisters of these "counter-revolutionaries" have lost their jobs because they refused to condemn or inform on the "culprits", and parents or children have likewise been harassed. *"All those who have links with an 'anti-social' person are victims of one or other form of reprisal until they cut all ties and state so publicly"*, commented **Jorge Olivera Castillo**, former editor of the Cuban television news and current director of the agency *Habana Press*, and **Marvin Hernández** (*Cuba Press*), whose families are harassed intensively.

Access to the Internet and to all professional training prohibited
The only two servers on the island are CENIAI, a branch of the Cuban science and technology ministry, and Infocom, run by the Italian-Cuban company ETECSA (Empresa de Telecomunicaciones de Cuba). Applicants must have a valid reason, in the authorities' eyes, to request access. Individual persons have to go to the ministry themselves. If the application is approved, they sign a contract with restrictive clauses. Thus, use of the Internet *"that violates moral principles of Cuban society or the laws of the country"* is prohibited. Electronic exchange must not *"undermine national security"*. Only senior government officials, a few researchers or specialists (watched by their superiors when they surf on the Net at work) and foreign firms represented in Cuba have total access to the Web.

Survive in fear or go into exile

On an island where the state is the only employer, independent journalists, paid very little by the sites that host their articles and never paid for their contributions to US radio stations, rely, like many Cubans, on money sent from their families in exile. The Cuban authorities, which have always preferred dissidents to leave the country (without the possibility of returning), subject them to intense pressure to go into exile. Some unrelentingly refuse. Others, tired of the pressure, especially when it affects their families, ask for a visa, most often to the United States but also to European or Latin American countries. Not all of them obtain one. Fourteen independent journalists went into exile in 1999 and 18 have done so since the beginning of 2000. Between 1993 and 1998 the total was only 17, according to information collected by RSF.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement*/ submitted by the Colombian Commission of Jurists, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

*/ This written statement is issued, unedited, as received in English, French and Spanish from the submitting non-governmental organization(s).

GE. * 2 0 0 - 0 * * 6 0 *

ENG

The Colombian Non-Governmental and Social Organisations hereby make known at the Human Rights Commission's 57th Period of Sessions that the High Commissioner on Human Rights' report remains in effect (E/CN.4/2000/8): *"Human rights (in Colombia) have not been given sufficiently high-priority treatment by the Government, nor have international recommendations been followed."(par.168).*

The Office of the United Nations High Commissioner on Human Rights (OUNHCHR) in Colombia has adequately fulfilled its double mandate, yet the Colombian government continues to disregard its recommendations, resulting in continued deterioration of the human rights and international humanitarian law situation. While an average of 12 persons per day were killed or disappeared due to socio-political violence in 1999, that figure rose to 14 in 2000 through extra-judicial executions, close to one person was disappeared daily, another person was killed every two days for belonging to marginalised social sectors, and over four died per day in combat.

Regarding the deaths and disappearances for which the alleged perpetrators are known, 79.95% are attributed to government agents: 2.44% directly (29 victims) and 77.51% indirectly through paramilitary groups, (920 victims). Guerrilla groups are purportedly the perpetrators of 20.05% of these cases (238 victims).[1]

Paramilitary groups were responsible for multiple massacres in 2000, including the El Salado massacre on February 18 in which 45 peasants were executed, and that of Nueva Venecia on November 22 with a toll of 49 fishermen executed and 30 disappeared.[2]

On August 15, 2000 in the town of Pueblorrico, six children between the ages of 7 and 11 died and four were wounded. When 50 students were on a school field trip in the company of adults, troops from the Army's IV Brigade attacked them, though the group begged them to stop the assault. Subsequently, military forces did not provide the victims with due care, and at least one wounded girl died of blood loss because she did not receive immediate medical attention. The *Fiscalía* ("Attorney General's Office") confirmed that there were no combats in progress when these acts took place. Army and Ministry of Defence spokespersons tried to justify these actions by claiming that the guerrillas had used the children as human shields, a version later disproved by the Attorney General's Office. The military criminal judge to whom the Attorney General's Office remanded the case dropped charges against 16 of those implicated in the proceedings.

The population subjected to forced displacement has continued to rise as a result of the escalated armed conflict and, on occasion, in efforts to facilitate the completion of large-scale projects. It is estimated that over 300,000 people were displaced in

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[1] Colombian Commission of Jurists' (CCJ) Data Bank.

[2] Defensoría del Pueblo ("Colombian Public Ombudsman's Office).

2000, while government policies have been inadequate to prevent the phenomenon and take care of victims' needs.[3]

"Plan Colombia", which was approved by the United States Congress, will intensify internal confrontations and increase human rights and humanitarian law violations, as is already the case in the Putumayo region.

Attacks continued on human rights defenders, journalists, and social and labour-union leaders. Upper-ranking officers in the armed forces have publicly opposed human rights NGOs in direct contradiction with presidential directives on this issue, without any disciplinary sanctions.

The situation in penitentiaries continues to become more serious. Members of paramilitary groups under arrest have tried to gain control of the jails, with the complicity of the guards, resulting in attacks on other inmates, especially political prisoners. In one massacre, 27 inmates were killed, yet the authorities failed to react in any way.

In Colombia, most of the population does not benefit from economic, social and cultural rights. The unemployment rate was higher than 20%, and governmental proposals to lower that figure have threatened the nation's workers' already precarious position.[4] The rural infant mortality rate is double that of urban areas, at 54.0 and 27.2, respectively,[5] and approximately 3,000,000 school-aged minors are currently outside of the educational system.[6]

Rights of black and indigenous communities continue to be violated, especially their rights to prior consultation in infrastructure projects, as established by ILO agreements, with severe consequences for the lives and health of the Embera-Kat'io and U'wa peoples, among others.

The parties to the conflict habitually commit serious violations of humanitarian law. ELN (*Ejército de Liberación Nacional*, "National Liberation Army") continued it mass kidnappings. FARC (*Fuerzas Armadas Revolucionarias Colombianas*, "Colombian Revolutionary Armed Forces") also pursued kidnapping and on numerous occasions damaged property and the civilian population through indiscriminate use of war tactics, such as gas-tank launchings, often killing civilians. The security forces continue to position emplacements in areas of protected property and persons, with the risks that such actions imply. The National Army bombed and machine-gunned a hamlet in the Cimitarra River

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[3] Consultancy on Human Rights and Displacement.

[4] Departamento Administrativo Nacional de Estadística (DANE) ("Colombian National Statistical Administration Department"), June 2000.

[5] Colombian Ministry of Foreign Affairs, Fourth DESC Committee Pact Report, May 2000.

[6] Defensoría del Pueblo, May 2000.

Valley on January 16, 2000, resulting in the displacement of 400 peasants and the destruction of homes.[7]

The government has adopted measures to restrict fundamental freedoms and has announced its presentation of a draft bill before Congress to limit *habeas corpus*, create special law-enforcement zones and grant special powers to the Military Forces for searches, arrests and wire taps.

The security forces have admitted that they do not confront paramilitary groups. A Ministry of Defence report states that results of efforts against paramilitary groups "can hardly be proportional due to the fact that guerrilla groups attack and confront Security Forces (...), self-defence groups shy away from actions against the Forces of Law and Order and have a policy of non-confrontation, which yields fewer opportunities to cause casualties and captures among their ranks."[8] Further verification is provided in the High Commissioner's third report on Colombia, which states, "This Office has been witness to statements by high-ranking Army Officers that paramilitary groups do not threaten constitutional security and consequently, it is not the Army's responsibility to combat them."

In October, 2000, 388 military officers were removed from active duty. Their names were not published, and no information is available on whether their withdrawal was due to human rights violations. In any case, no legal investigation was opened against these officers, and it is known that security officers for whom there are serious indications of ties to paramilitary groups were not removed. Several retired officers entered paramilitary groups, according to Ministry of Defence reports.

Impunity is close to 100% for human rights violations. In many case, the Attorney General's Office does not have the support of the government's security forces. On other occasions, that Office has remanded investigations to military criminal justice, going against international recommendations and the decision of the Colombian Constitutional Court, which ordered that all human rights violations be investigated and judged by ordinary civil justice.

The signatory organisations support efforts favouring a negotiated solution to armed conflict. The quest for peace must go hand-in-hand with a serious human rights policy in which the government is not present. This policy must guarantee victims' rights to truth, reparation and just sanctions for responsible parties. We demand respect from the armed participants for the rights of non-combatants, as well as the signing of humanitarian agreements.

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[7] CINEP and Justicia y Paz data banks.

[8] "Law Enforcement and Human Rights in Colombia" ("La fuerza pública y los Derechos Humanos en Colombia", March 2000.

Consequently, we ask this Commission to do the following:

- Based on the High Commissioner's report, vigorously show your deep concern for the human rights crisis in Colombia, as well as for repeated breaches of recommendations made.
- Strengthen OUNHCHR's mandate in Colombia by ensuring adequate financing, supporting its work and urging the Colombian government to follow its recommendations.
- Ask the High Commissioner to present its report on Colombia also to the United Nations General Assembly.
- Name a Special Rapporteur for Colombia as a complementary mechanism to support OUNHCHR in the area of compliance of international recommendations.
- Urge the Commission's thematic mechanisms to redouble their attention to Colombia's human rights crisis and ask them to visit the country once again.
- Make a special call to countries providing military aid to Colombia so that such aid is not used to violate human rights and that a condition thereto is compliance with repeated United Nations recommendations.
- Form a group within the heart of the Commission to analyse OUNHCHR recommendations and present a report at the Commission's next series of sessions.
- Recommend that the Security Council establish an Ad Hoc Criminal Tribunal for Colombia to investigate and decide on serious human rights violations, war crimes and crimes against humanity.
- Decide on all of the foregoing through a Resolution, due to the lack of co-operation by the Colombian government, as seen in its repeated breaches of international recommendations.

Bogota, Colombia, December 2000.

1. ACGTD Confederación General de Trabajadores Democráticos
2. Asociación Campesina de Antioquia
3. Asociación Campesina del Valle del Cimitarra
4. Asociación de Familiares de Detenidos Desaparecidos - Asfades Medellín
5. Asociación de Trabajo Interdisciplinario - ATI
6. Asociación Nacional de Ayuda Solidaria - Andas Bogotá
7. Benposta Nación de Muchachos
8. Casa de Paz Cali
9. Cencooser Central Cooperativa de Servicios
10. CEPECS Centro de Promoción Ecomenica Social
11. Cinep Centro de Investigación Popular
12. Corporación Avre
13. Colectivo de Abogados
14. Colectivo de Derechos Humanos Semillas de Libertad - Codhesel
15. Comisión Colombiana de Juristas

16. Comité Permanente por la defensa de Derechos Humanos
17. Comité Permanente por la Defensa de Derechos Humanos "Hector Abad Gómez"
18. Comité de Solidaridad con Presos Políticos - CSPP
19. Comunidades Eclesiales de base
20. Consejo Regional Indígena del Cauca - Cric
21. Corporación Cleber
22. Corporación Compromiso
23. Corporación Jurídica Libertad
24. Corporación Mujer y Dignidad Piedecuesta
25. Corporación Utopías
26. CPC Confederación de Pensionados de Colombia
27. Credhos
28. CSPP Valle
29. CTC Confederación de trabajadores de Colombia
30. Sub directivo de la CUT Norte de Santander
31. Defensa de los Niños Internacional - DNI
32. Diócesis de Quibdó
33. Escuela Nacional Sindical
34. FEDES Federación Educativa de desarrollo
35. Franciscans International
36. Fundación Estrella Orográfica del Macizo Colombiano - Fundecima
37. Fundación Equipo Técnico
38. Fundación Foro Costa Atlántica
39. Fundación Sumapaz
40. Funprocep
41. GAD
42. Grupo de Gays y Lesbianas
43. Humanidad Vigente Bogotá
44. Instituto Latinoamericano de Servicios Legales Alternativos - ILSA
45. Instituto María Cano
46. Instituto Popular de Capacitación - IPC
47. Justicia y Paz Medellín
48. Mencoldes Fundación Menonita para el Desarrollo
49. Organización Femenina Popular
50. Organización Indígena de Antioquia - OIA
51. Partido del Socialismo Democrático
52. Pastoral Social Villavicencio
53. Reiniciar
54. Sintrainal Coordinadora Popular
55. Solivida Cali
56. Sol y Tierra

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF: FREEDOM OF EXPRESSION

Written statement*/ submitted by Reporters without Borders-International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2001]

*/ This written statement is issued, unedited, as received in English and French from the submitting non-governmental organization(s).

GE. *200 0 1 204 *

ENG

ETHIOPIA

Ethiopia has for some time been condemned by organisations for the defence of press freedom as the biggest prison on the African continent for journalists. On 1 February 2001, seven journalists were behind bars in the country. Four had been there since 1997. Some were convicted of press offences; others for "taking part in terrorist activities". The increasing number of journalists being prosecuted, and the confusion surrounding the cases - sometimes even the journalists' lawyers are not aware of all the charges against their clients _ makes any investigation very difficult. Nobody knows exactly who is in jail and how long they have been there. Journalists often do not know the names of their imprisoned colleagues. Similarly, justice ministry officials do not always know why journalists have been imprisoned.
Many Ethiopian journalists have cases pending against them and may therefore be arrested at any time.

More than eighty titles
About 50 privately owned newspapers publishing general news, most of them weeklies, are available from Addis Ababa newsstands. Almost all these titles are in the Amharic language. Ten or so political and financial weeklies are published in English. *Menelik* is the largest-circulation newspaper, with 16,000 copies sold weekly. Most publications have a circulation of between 2,000 and 6,000. The Ethiopian Free Journalists' Association (EFJA), started in 1993 for journalists from the private press, won official recognition on 13 March 2000. The government publishes four newspapers: two dailies, in Amharic and English, and two weeklies, in Oromo and Arabic. Four of the 9 regions in Ethiopia's federal system have their own publications. There is also an official news agency, the *Ethiopian News Agency*.
The broadcasting sector is entirely controlled by the state.

Seven journalists in jail

Tamrat Gemeda (*Seife Nebelbal*)
In October 1997 Tamrat Gemeda, editor in chief of the weekly *Seife Nebelbal*, was arrested in Addis Ababa along with 105 other people of Oromo origin. They were taken to Nazret prison, 100 kilometres east of the capital. All were freed few months later, except for Tamrat Gemeda, who was moved to Kerchiele central jail, Addis Ababa. He was accused over several articles published in *Seife Nebelbal*. In one, a reporter claimed that a pro-government militia had gone to Chomo-Dabos (Oromia State – West of the country), where it had suffered heavy losses in clashes with another armed group, which was not named. The weekly said the militia leader had died in the fighting, and even specified where he was buried.
In March 2000 Tamrat Gemeda was sentenced to a year in jail for publishing "false information". He had already served his sentence, but is still in jail because numerous other charges are pending against him. The court chairman has refused him bail, claiming that in 1997 he had gone into hiding when he was supposed to turn up for a hearing. In fact, he was being held in Nazret jail. Tamrat Gemeda has written to the authorities asking for confirmation that he had been imprisoned at the time of the hearing. The Addis Ababa criminal investigation department claims to have provided this, but the court says it has received no such confirmation.

Tesfaye Deressa, **Garuma Bekele** and **Solomon Nemera** (*Urji*)
On 16 October 1997 Garuma Bekele, publishing manager of *Urji*, and Tesfaye Deressa, the newspaper's editor, were arrested in Addis Ababa. A few days earlier, *Urji* had published a report contradicting an official statement that three men killed by security forces on 8 October

were members of the Oromo Liberation Front (OLF) and had been involved in attacks carried out by the front. The weekly said that the three men were indeed but did not belong to the OLF. Garuma Bekele was also secretary of the underground Human Rights League, which defends the Oromo cause.The day after the arrests, Solomon Nemera, a reporter with *Urji*, was appointed editor. Three weeks later he too was arrested by the police. *Urji* was forced to stop publishing and has not appeared since. The three journalists, who have been accused of "inventing and publishing false information", are being held at Kerchiele jail. In autumn 1999 Garuma Bekele and Tesfaye Deressa were sentenced to a year in prison. In February 2000 Solomon Nemera was given the same sentence. All three have now been behind bars for over three years and have therefore more than served their sentences. However, they cannot be released because they are also charged, along with 49 other people, with "belonging to terrorist movements" under article 252 of the penal code, an offence for which bail is not allowed. They face 15 years in prison if found guilty. The trial is held behind closed doors and their families are banned from attending. Their lawyer has been denied visit permits and his clients prevented from talking in Oromo. No sentence has been pronounced so far.

The three other journalists currently in jail, have been arrested in 2000. They are Tewodros Kassa and Melese Shine, from Ethiop and Zegeye Haile from Genanaw.

Journalists at risk of arrest

The system of paying bail to the courts has enabled many journalists to remain free and continue with their work while awaiting trial. On the other hand, the slowness with which cases are brought to court and the ever-increasing number of complaints filed means that a large proportion of editors and publishing managers of privately owned newspapers published in Amharic are currently on bail, and may therefore be arrested, sentenced and jailed at any time. Many find the situation hard to take. Although most claim it has not changed the way they write, some admit that they have left the private press and joined state-run newspapers as a result of the pressure. Since 1991 and the arrival in power of the Ethiopian People's Revolutionary Democratic Front (EPRDF), more than 160 journalists have been locked up at some time or other.

Tsegaye Ayalew, editor of the weekly *Genanaw*, has been arrested four times between 1995 and 2000. He is currently on bail, but still faces libel charges over six articles published in his newspaper. One of them was a report about two small children killed when they touched an electric cable attached to a pole that had fallen in a street in the capital. *Genanaw* accused the Ethiopian Light and Power Corporation (a public company) of "pure negligence". The pole remained on the ground for several days before the board intervened.

Other journalists, anxious to protect their families and not go back to jail, have decided to leave the country. About 15 have fled Ethiopia in recent years, and all have obtained political refugee status in Europe or North America. Dawit Kebede, editor of the weekly *Fiameta*, left Ethiopia in January 2000. Twelve different cases were pending against him at Addis Ababa courts.

A repressive legal framework

Like most African countries, Ethiopia maintains prison sentences for press offences such as "libel" and "publishing false information" in its legislation. In addition to the press law, the authorities can use some sections of the penal code to pass even heavier penalties against journalists.

Nonetheless, article 29 of the Ethiopian constitution guarantees press freedom, stating that it includes "the freedom to seek, receive and impart information and ideas of all kinds". The constitution adds that "media financed or controlled by the state must respect diversity in the expression of opinions".

The press law sets out a general framework for the practice of the profession of journalist. Anyone found guilty of libelling a person or company may be sentenced to three years' imprisonment. Other penalties are taken from the penal code, which dates from 1957 and provides for jail terms of up to ten years for anyone convicted of "damaging state security", "incitement to war" or "revealing state secrets". Article 269 includes similar sentences for anyone convicted of publishing information "liable to demoralise public opinion". Other, less severe penalties, such as suspended sentences and fines, are stipulated in cases of libelling or insulting individuals.

In June 1999 parliament adopted broadcasting law 178/1999, under which privately run television channels and radio stations may be started, but the office in charge of the attribution of frequencies to private operators has not been set yet by the government. Broadcasters who fail to respect certain terms of the law concerning licences, advertising regulations and so on are liable to be sent to prison. The broadcasting law refers to the press law for offences such as libel.

Harsh prison conditions

Detention conditions are worrying. A journalist reported that at Kerchiele prison he was not allowed to receive letters written in English nor to have a pencil and paper. Cells are overcrowded and prisoners only had access to the toilets twice a day. Visits are restricted. Some prisoners are ill-treated in prison.

Conclusions

The authorities must share responsibility for the state of press freedom in Ethiopia. In most cases that come before the courts, journalists are jailed as a result of complaints filed by state officials or high-ranking civil servants. But it is also true that some journalists fail to respect professional standards. Many ill-informed and defamatory articles can be found in the press. The authorities take advantage of the situation to denigrate the "private press" as a whole.

Although fewer journalists are now in jail, Ethiopia is still Africa's biggest prison for the profession.

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Democratic Republic of Congo

More than 150 journalists have been imprisoned since Laurent-Désiré Kabila's troops entered Kinshasa on 17 May 1997. Since, Congolese journalists have had to face even greater repression than during the last years of Marshal Mobutu Sese Seko's reign. Journalists have been imprisoned, mostly without trial or explanation and perfectly illegally. The legal authorities are very seldom involved, limits on the time people can be kept in custody are almost never respected, and relatives and lawyers are not allowed to visit certain places of detention. Dozens of cases of ill-treatment, cruelty and torture have been reported. Some journalists have been whipped, others beaten with metal bars, others subjected to humiliation. During the past three years, newspapers have been seized, burned and suspended. The offices of media close to the former government have been ransacked and looted. Foreign journalists have been thrown out of the country. But the biggest threat hanging over the media comes from the nine security services, which act ruthlessly, throwing journalists into jail with impunity and in a completely arbitrary fashion. Although the authorities are confronting real problems because of the war plaguing the country, the lack of any sanctions against those who overstep the mark shows that the government has little inclination to launch an effective struggle against violations of press freedom.

The 1996 press law is meant to be amended by the Constituent Assembly. The amendment proposals would make the law more liberal. The minister responsible for the case has promised to abolish prison sentences for press offences, but the media fear that judges continue to use the much more repressive Penal Code to put journalists in prison.

The DRC has a real diversity of news sources - dozens of titles representing many shades of opinion are on sale in the streets of Kinshasa, which has several privately owned radio stations and half a dozen private television channels - the state maintains total control of *Congo National Radio and Television* (*RTNC*). In fact, the state broadcasting service might be described as the president's private hunting ground. On the other hand, many journalists fail to respect any of the generally accepted standards for the profession.

The security services

The DRC has nine security services. All of them have arrested journalists. Journalists may be prosecuted for allegedly libellous reports by the authorities, as well as by people close to the government or those with contacts in the security services. The rule of presumption of innocence is never respected. And if they fail to track down the journalist they want, the security forces may arrest a colleague or relative instead. Journalists are ill-treated and tortured in detention. Prison conditions are appalling. Journalists are kept in solitary dungeons and are refused medical care. Visiting rights are the exception rather than the rule: several journalists receive no visits for weeks on end, either from their families or their lawyers.

The National Intelligence Agency (ANR)

This service, which is answerable to the Interior Ministry, has several dungeons in Kinshasa and in other cities throughout the country. It is the one that has detained the biggest number of journalists.

On 7 November 1999 Djodjo Kazadi, editor of the weekly *La Palme d'Or*, was arrested at his home in Kinshasa by armed men. He was taken to the offices of the ANR's internal management. No explanation was given for the arrest. In its 4-11 November edition, *La Palme d'Or* had published a

report alleging that the inhabitants of Kivu wanted Laurent-Désiré Kabila to be put on trial. The journalist was released on 15 January 2000.

The other security services, are ***The State Security Committee (CSE), The Rapid Intervention Force (PIR), The Police Special Services (SSP), Military Detection Force for Anti-Patriotic Activities (DEMIAP), The Special Presidential Security Group (GSSP), The Prosecutor's Office Police (IPP), The Airports Security Agency (ASA), The Kinshasa Provincial Inspectorate (IPK).***

On 18 April 2000 national radio presenter Imbanda Lokenga was arrested by five GSSP officers as he was preparing a feature at the home of the chairman of the Congo Consumers' Union. He showed them his press card, which they immediately grabbed. Two officers beat him with their belts. Imbanda Lokenga, who found himself lying on the ground, said: "I didn't react and the commander thought I was making fun of him. He took out a metal bar and hit me on the shoulders and head with it. Then they dragged me along the ground to a house they were occupying. There, as I was bleeding, they sprayed me with surgical spirit. After that they let me go, without explanation."

Journalists tried before a military court

The Military Order Court (COM), set up at the start of 1998 to try soldiers accused of atrocities committed when AFDL troop entered Kinshasa, has tried six journalists and sentenced five of them to prison terms. Its rulings are not subject to an appeals procedure. Hearings usually take place behind closed doors, and no lawyers are allowed to attend.

Freddy Loseke, publishing manager of the triweekly *La Libre Afrique*, has been arrested nine times. Freddy Loseke is known for his lack of responsibility as a journalist. Nonetheless, he is still entitled to all the rights accorded under the law. On 31 December 1999 Freddy Loseke was arrested at his home by a group of soldiers. He was accused of publishing articles about the imminence of a coup d'état. On 11 January 2000 a soldier helped Freddy Loseke to escape from the camp. The next day about 20 members of his family were arrested in a bid to force him to give himself up to the police. The journalist complied on 13 January. On the same day General Yav called for Freddy Loseke to be tied up and given 150 lashes. He was then thrown naked into a solitary cell. On 14 January he was brought before the COM and told that he was being tried for "deliberately spreading rumours". On 3 May, at the last hearing in the trial, the prosecutor reworded the charge, in complete contradiction with Congolese law which states that only the judge can make such a decision. Freddy Loseke stood accused of "insulting the army" and faced a ten-year prison sentence. The verdict was due to be announced within a week, but it was only three weeks later, on 23 May, that he was sentenced to three years in jail. The journalist was released on 4 January 2001, together with two other journalists also sentenced by the COM.

Private media harassed by the government

The premises of media critical of the government have been looted or set on fire during the past three years. In recent months the privately owned *Radio Television Kin Malebo* (*RTKM*) has been the subject of severe harassment by the authorities. On 11 March the director of the Office of Illegally Acquired Goods (OBMA), accompanied by police officers, turned up at *RTKM*'s administrative offices with a decree dated 7 March and told the staff that their equipment was to be requisitioned by the state. Transmitters were also seized. In September, the name and programmes of the television were changed and journalists were sacked.

Public broadcasting: the president's private hunting ground

National radio and television are at the beck and call of the head of state and his government. Many *RTNC* journalists complain that they have to practise "formal journalism", restricting themselves to the reporting the official activities of the president and government. The information ministry, whose offices are on the top floor of the *RTNC* building, exerts complete control of news broadcast by the state media. Some state media journalists have been victims of abusive sanctions. For example, Chantal Kinyimbo was suspended from appearing on television for six months from April 1999, after a history teacher who had called for the formation of a government of national unity to appear on her programme. "

This report does not take account of violations of press freedom in areas controlled by rebels of the Congolese Union for Democracy and by troops from several foreign countries, but RSF condemns those violations just as strongly as the ones referred to above (see also the RSF 2000 Annual Report: Press Freedom throughout the World).

In April 1999 a resolution approved by the United Nations Commission on Human Rights expressed concern about "the arbitrary arrest and imprisonment without trial of journalists in the DRC". In February and again in September of that year, the United Nations' special rapporteur on human rights in the country, Roberto Garreton, pointed out that many journalists were still being persecuted. In reponse, information and tourism minister Didier Mumengi and human rights minister Leonard She Okitundu said in a joint statement in September: "The Democratic Republic of Congo has always respected its international undertakings concerning freedom of expression and the right to information." This report provides evidence that that is not the case.

Since 1996, the AFDL forces have also attacked foreign correspondents. About 15 foreign journalists have been expelled, arrested and even imprisoned, accused of spying or using false papers.

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GE. *200'0''246*

ENG

Russia

Reporters Without Borders condemn murders and assaults of journalists in recent weeks

The stormy relations between the Russian government and the clique of bosses who run the media economy in Moscow have, in the past few months, been highlighting the difficulties facing freedom and diversity of news in Russia.

The right for journalists to go about their work in complete safety, and that this right is not guaranteed in the Federation of Russia. The threats hanging over journalists covering fighting in Chechnya and the continuing deterioration of Russian reporters' working conditions in several republics have reached an unprecedented high.

Growing threat to journalists covering the Chechen conflict

- On 16 October 2000 **Antonio Russo**, an Italian reporter covering the Chechen conflict from Georgia, was found dead by the side of a road north-east of Tbilisi. Ropes with which he had been tied up were found near the body. His apartment had been searched and looted. His satellite phone and portable computer had disappeared, along with video film of the fighting in Chechnya. Russo was working for *Radio Radicale*, the station of the Radical Party (run by former European Commissioner Emma Bonino) and the Transnational Radical Party. Russia has just started proceedings to have the latter party's consultative status with the United Nations suspended. France has opposed the move. Russo had been in Georgia covering the war in Chechnya since February. The head of the Tbilisi public prosecutor's criminal investigation department said on 19 October that he could not "exclude the possibility that the murder was committed by a foreign secret service". The public prosecutor in Rome has also opened a murder inquiry.

- On 21 September **Iskandar Khatloni**, a journalist working for *Radio Liberty* in Moscow, was found dead with a smashed skull. The connection between the killing and the work of the journalist, who had been investigating human rights violations in Chechnya, has not yet been established.

- On 5 September **Ruslan Mussayev**, a cameraman with the US news agency *Associated Press* in Chechnya, was arrested and violently beaten by Russian soldiers. He was kept all night at the bottom of a well near the Khankala military base.

- On 12 May journalist **Alexander Yefremov** was killed in south-east Chechnya by a remote-controlled mine.

- Reporter **Andrei Babitsky**, who was arrested on 25 February 2000 for "belonging to an armed gang", was held for several months by the Russian armed forces.
Dozens of other journalists have been ill-treated or threatened since the start of the conflict.

In the various republics of the Russian Federation, the independent media are the focus of continually increasing pressure from regional and local authorities. The number of attacks has increased further in recent weeks.

- On 14 October 2000 **Magomet Tekeyev**, editor of the independent daily *Gorskiye Vedomosti*, was violently beaten with a club in Cherkesk, the capital of Karachai-Cherkessia, a Russian republic north of Georgia. The journalist had on several occasions condemned corruption among the republic's leaders.

- On 3 October **Serguei Ivanov**, the director of a private television channel in the Samara region, was shot dead. Police are working on the possibility that the motive was a settling of scores.

- On 30 September **Sergey Amelin**, an investigative journalist who had published several highly critical articles about the governor of the republic of Khakassia, north of Mongolia, and had been threatened on various occasions, was stabbed and seriously injured.

- On 26 July **Sergei Novikov**, director of the independent radio station *Vesna* in the Smolensk region, was shot dead. The motive for the killing is not known.

- On 16 July **Igor Domnekov**, a journalist with *Novaya Gazeta*, was fatally injured by a stranger. He had already received threats connected with his work as a journalist.

We have witnessed a considerable increase in the number of attacks and threats reported to our organisation in recent months. The situation is particularly worrying in the republics of Khakassia, Karachai-Cherkessia, Upper Altai (north-eastern Kazakhstan), Udmurtia (north of the Volga), and in the Russian regions of Magadan and Smolensk.

By deciding to award posthumously the "Russian Order of Bravery" to Kalmukian journalist **Larisa Yudina** (murdered in 1998, apparently on the orders of the highest authorities in the Republic of Kalmukia) on 11 September, President Putin was doubtless stating his concern about regional governments. But too many officials in the federal government and the Moscow municipality still refer openly to their scorn for independent news. A clear commitment to press freedom by the central government would set an example to the regions.

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Burma: twelve journalists sentenced to die in jail

At least four journalists, San San Nweh, Sein Hla Oo, Win Tin and Soe Thein, are currently in a very preoccupying poor health. The Burmese authorities do not do anything to provide the necessary medical care. Since the coming to power of the army, in 1988, three opposition journalists have died in jail under torture or from a lack of care. Burma is, with China, the largest prison in the world for professionals of the press. Twelve journalists are detained in insalubrious cells. Several hundred political prisoners are detained in Insein. The majority of the journalists accused of supporting the NLD were sentenced to heavy jail sentences. Burmese citizens face the same fate when they listen to a foreign radio station, when they have a fax machine without permission or when they use the Internet to spread "subversive" news.

This year, and above all since Aung San Suu Kyi was placed under house arrest, censorship has been strengthened. Two publications have been banned for two months for having quoted the names of General Aung San, father of the Nobel Prize for peace, and dissident writers. The censors have forbidden importation of publications mentioning the name of Aung San Suu Kyi. They also prohibited Rangoon media last November from mentioning the 5-0 defeat of the national football team against Indonesia. It is important to note that the most influential leader of the junta, Khin Nyunt, is personally involved in the selection of the team players.

It is furthermore impossible for reporters of the foreign press to work freely in the country. This year at least ten of them have been put onto a black list of foreign journalists banned from Burma.

Burmese journalist San San Nweh, Reporters Sans Frontières 1999 Prize, starts her seventh year in detention

On 5 August 1994 San San Nweh, journalist, writer and political activist, was arrested in Rangoon (Burma) by the military security police (MIS). She is currently serving a ten-year prison sentence for "spreading information harmful to the state" with the aim of "causing trouble". Since her arrest she has been cooped up in a ten square metre cell in the women's wing of Insein prison in Rangoon. San San Nweh is subjected to interrogations by the MIS and to collective harassment. Prison wardens have repeatedly refused to provide the medical care she requires.

According to the latest information supplied by her family, San San Nweh is very weak and is suffering from several diseases: high blood pressure which could cause a heart attack at any stage; arthritic rheumatism that caused an onset of paralysis in 1998 already; kidney infection; and thrombocytopenia (an abnormal decrease in the number of platelets in the blood) that causes repeated haemorrhaging. Prison authorities recently allowed here to go to the prison infirmary alone during the day. This "privilege" enables her to rest on a bed and to have access to certain basic medicines. But the treatment that she must imperatively receive is still refused and she has to sleep in her insalubrious cell at night.

San San Nweh shares her cell with three other persons from the National League for Democracy (LND, an opposition party led by Aung San Suu Kyi, Nobel Peace Prize winner in 1991), Daw San San, elected representative of the LND in 1990, Daw Bo Ma and Daw May

Win Myint. The roof of the cell is very low and there is only a tiny window, so that air cannot circulate normally. Prisoners sleep on bamboo mats on the ground. The toilet – a mud bowl in the corner of the room – is cleared once a day only. From 6 a.m. the women are forced to sit cross-legged on the ground with their heads bowed. Speaking is forbidden and disobedience is sanctioned. San San Nweh does, however, have the "privilege" of being allowed to read religious books. Once a day, for fifteen minutes, prisoners are taken to the "shower" where they are allowed to talk.

In March 2000 San San Nweh's daughter, Ma Myat Mo Mo Tun, was released after serving a five-year jail sentence. They had been detained together for a long time. San San Nweh is still very concerned about her six children, deprived of resources since the death of their father and the imprisonment of their mother. Her family has been making huge sacrifices for the past six years to collect the 180 francs per month needed to take food to her in prison (the average monthly salary in Rangoon is 350 francs per family).

Since August 1994 San San Nweh has been interrogated regularly by members of the MIS, omnipresent in Insein jail. According to a former prisoner, they sometimes go to her cell, put a cloth sack over her head and take her to the interrogation room. According to her daughter, Ma Myat Mo Mo Tun, the authorities regularly propose she sign a document undertaking to give up all LND activities, in exchange for her release. San San Nweh has always refused this blackmail.

According to RSF's knowledge, the journalist has not been tortured but repeated interrogations tire her enormously. Some prisoners bribe the guards to avoid these sessions of "psychological torture".

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF: FREEDOM OF EXPRESSION

Written statement*/ submitted by Reporters without Borders-International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2001]

*/ This written statement is issued, unedited, as received in English and French from the submitting non-governmental organization(s).

UKRAINE

Mutilation of the truth
Inquiry into the murder of journalist Géorgiy Gongadze

Introduction

Reporters Sans Frontières (RSF) sent a mission of inquiry to Kiev, from 5 to 12 January 2001, to investigate the kidnapping and murder of journalist Géorgiy Gongadze, editor-in-chief of the on-line newspaper *www.pravda.com.ua*.

On 16 September 2000 journalist Géorgiy Gongadze disappeared. This event became an affair of state after the broadcasting on 28 November 2000 of recordings, claimed to have been made in the president's office, which tend to prove that the highest authorities are implicated in the disappearance of the journalist. Against a background of power struggle between the executive and parliament, the Gongadze affair has become the centre of an intense political struggle around the authenticity of these audio tapes and the conditions in which they were recorded.

RSF considers that Géorgiy Gongadze was murdered because he was a journalist. Everything seems to have been done to prevent that truth from being revealed. After four months of obstruction, the legal inquiry needs to be started again from scratch and conducted through to the end. Attempts to intimidate the journalist in the weeks preceding his disappearance require an in-depth investigation. A new autopsy should reveal important information on the conditions of his death.

The inquiry into the disappearance has led nowhere

The inquiry into the journalist's disappearance has been an accumulation of delays and mistakes. The journalist's family, like certain witnesses, have intentionally been ignored. His colleagues and friends are treated as obstacles rather than assistants in the inquiry. Shortcomings have become more and more obvious as the journalist's disappearance has become a political affair.

Everything seems to have been done to ensure that the body could not be identified

The discovery by a farmer, on 2 November 2000, of a body buried in a shallow grave near Tarachtcha, a small town in the Kiev region, was followed by an incredible series of very serious shortcomings in the inquiry. The body had been decapitated and the fingers and toes were in a very bad state. The remains were in an advanced state of decay due to the fact that decomposition is faster close to the surface of the ground. The body had been injured by what seems to have been an axe. It was examined by a local expert, Igor Vorotinsev, who carried out an initial autopsy. The approximate date of the death could correspond to the disappearance of Géorgiy Gongadze. A member of the parliamentary commission of inquiry indicated that Igor Vorotinsev submitted a first autopsy report on 8 November, in which he confirmed this fact. A copy was given to the Tarachtcha militia. Although he alerted the authorities to the discovery and state of the body, the remains were kept in the small Tarachtcha mortuary for thirteen days, without adequate facilities to preserve it. As a result, subsequent analyses and identification of the body were far more difficult.

Men "capable of anything"

The Gongadze case swelled into an affair of state with the revelation, on 28 November 2000 by one of the opposition leaders, of recordings supposedly made by an officer of the secret police in the office of President Leonid Koutchma during conversations between the president and several senior officials. In these conversations various means of eliminating Géorgiy Gondadze are discussed. In one of them an interlocutor presented as possibly being the interior minister, Iouri Kravtchenko, affirms that he has people capable of doing the job. He describes them as "real hawks" prepared to "do anything you want". In his declaration to the Ukranian parliament on 10 January the state prosecutor, Mihailo Potebenko, gave the result of expert analyses of these recordings, performed in Ukraine. The conclusion is that the bad quality of the tape which had been analysed (a copy of the original) did not make it possible to identify the voices.

Conclusions and recommendations

RSF denounces the serious shortcomings in the way in which the Ukranian judicial authorities have conducted the inquiry into the murder of Géorgiy Gongadze. The organisation considers, in particular, that the state prosecutor of Ukraine has conducted his investigations with the sole aim of clearing the name of the political authorities from any responsibility in this affair. RSF condemns the offhandedness, not to mention the contempt, with which the judicial authorities have treated the family and friends of Géorgiy Gongadze. RSF is concerned about the threats and intimidation of which several newspapers have been victims while investigating or reporting on the Géorgiy Gongadze affair.

RSF recommends that the Ukranian authorities:

- start a new inquiry and appoint a new state prosecutor;
- perform a new autopsy on the decapitated body of Géorgiy Gongadze, and do everything possible to find and identify the head and determine the date and cause of the journalist's death;
- take all necessary steps to identify those responsible for the murder;
- conduct an in-depth investigation on the possible involvement of official services in the disappearance of the journalist, and in the threats against him in July 2000;
- promulgate the law on parliamentary commissions of inquiry as quickly as possible;
- take all necessary steps to put an end to violence against journalists in Ukraine, so that they can work freely and safely.

Should the authorities fail to make an effort to get to the bottom of this case in the next few months, RSF would recommend that the Council of Europe suspend Ukraine's status as a member.

ANNEX

Open letter to the State Prosecutor of Ukraine,
Mr. Mykhajlo Potebenko
Géorgiy Gongadze
14 July 2000

Dear Sir,

I, the undersigned, Géorgiy Gondadze, journalist, wish to express my profound indignation at the insolent behaviour of the police who have laid charges against my colleagues and myself.
For two weeks, representatives of the militia collected information on me from people who know me, without explaining the purpose of their inquiry.
They questioned neighbours around my administrative residence in Lviv, as well as my mother, about my activities and lifestyle.
For two days two colleagues of mine at my newspaper were questioned by representatives of the militia who, under different pretexts, checked their identity documents and took notes.
On 10 July a colonel from the militia went to see the general manager of the radio station "Continent", Sergiy Cholokh. The colonel toid him a story about my alleged participation in a criminal "settling of scores" in Odessa, in which one person was killed. In other words, they want to accuse me of being involved in a criminal affair.
According to this colonel, on 25 June, a few minutes before the shot went off in an Odessa café, two people had gone into the café and introduced themselves as journalists from "Continent" radio station in Kiev. One of them reportedly showed a document with the name Géorgiy Gongadze or perhaps "Galadze" (at least the first time the colonel pronounced the name in this way) on it. The other person introduced himself as Kostia.
At first the colonel stated that nobody had paid any attention to the press cards but later it became clear that witnesses had described a small red card holder. Apparently they even saw the signature of the director of the station "Continent", a certain Vitaliy Andriovitch Kouchtch. All this is very surprising. First, all the radio station's correspondents have plastic-coated cards; secondly, all documents bear the stamp of the Media-Centre to which the radio is affiliated; and lastly, on that day I was in Kiev.
The colonel asked Cholokh to describe my character, to say what sort of person I am. Sergiy made it clear that I am known as someone who openly criticises the government, who can ask the president uncomfortable questions and who is not afraid of the government, but that it is out of the question that I belong to criminal gangs or have had contact with armed gangsters.
The colonel asked Sergiy to look for me so that he could meet me. He promised to call back at 5 p.m. but he called back at 3 p.m. and then disappeared.
Finally, I have been followed for the past few weeks. Unknown persons follow me in a Jigouli car with the official registration number 07309 KB. They wait for me outside my home and my office.
Since the information on my participation in a crime is totally absurd, I claim the right to an explanation for these actions which are clearly planned provocation aimed, I believe, at intimidating me and, at the worst, preventing me from doing my job.
That is why I request you to put a stop to this arbitrary action and to protect me from this psychological terror. I also request you to find and to punish the people responsible for it.

Géorgiy Gongadze, journalist

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ALGERIA

Five journalists "missing":
No serious investigation
The security forces implicated in three cases

"But who talks about it? Who would dare? Fear kills, words execute free expression and muzzle languages. Don't breathe a word: omertà is life insurance"

Djamil Fahassi, "missing" since 6 May 1995

Between 1994 and 1997, five journalists "disappeared" in Algeria: Aziz Bouabdallah, Kaddour Bousselham, Djamil Fahassi, Mohamed Hassaïne and Salah Kitouni. About 7,000 people are currently reported "missing" in Algeria, according to Algerian human rights associations.

A RSF mission went to Algeria from 14 to 19 January 2001 to investigate these five cases of "missing" journalists.

Aziz Bouabdallah
Aziz Bouabdallah, born in 1974, worked from 1996 for the daily *El-Alam Es-Siyassi*.

On 12 April 1997 at 11.30 p.m. the doorbell rang at Aziz Bouabdallah's home. A voice ordered: "Open, police!". Two "very well-dressed men in civilian clothes, like members of the military security police", according to the family, entered the flat and took the journalist. "That was the last time we saw him", explained his father.

A captain in the police who knows the family affirmed that he was responsible for the "operation" and explained that Aziz Bouabdallah "had done nothing. He simply wrote a libellous article". He added: "He's had some very rough treatment but he'll be well-treated". In the following weeks the family tried in vain to contact the captain again.

On 19 April 1997 the sister of one of Aziz Bouabdallah's friends who was arrested and released two days earlier explained to the journalist's mother: "Don't worry, your son is in Ben Aknoun jail. He's soon going to be released".

Multiple steps taken by Aziz Bouabdallah's parents resulted, on 20 May 2000, in the case being dismissed by the Algiers court for lack of evidence. In the court of criminal appeal had cancelled this dismissal. On 30 September 2000 the family received a second notification, from another court, that the case had been dismissed by another judge.

To date, the investigation by the authorities has been limited, according to the journalist's family, to police questioning of Aziz's parents five or six times. According to Aziz's mother, nobody else has been questioned.

Kaddour Bousselham
Kaddour Bousselham, correspondent for the state-owned daily *Horizons* in Hacine, was housed with his family in a tent in an "centre for earthquake victims" after an earthquake in the region in August 1994.

In the evening of 29 October 1994 four armed men went to the "centre for earthquake victims", grabbed him and threw him into a car.

In 1998, the emir Farouk, told the Oran court that Kaddour Bousselham had his throat slit by another emir, Zoubir. According to Farouk, his body was buried with others on Mount

According to the justice ministry, a preliminary investigation was launched on 27 November 1994. On 18 February 1995 the case was dismissed for lack of evidence.

Djamil Fahassi
Djamil Fahassi, journalist with *Chaine 3*, a programme in French on the state-owned radio station, was detained six months in 1991 for writing an article published in *El Forkane*, a French-language weekly of the Islamic Salvation Front (FIS).

From February to March1992, he is incarcerated at the Ain Salah prison, one of the detention camps for Islamists in the Sahara. "On his return Djamil was again under pressure", explained a former colleague who noted that the journalist was a victim of psychological harassment by the then editor-in-chief, Chadli Boufaroua. In April 1995 he took six months' unpaid leave and tried, in vain, to join his brother in Germany. The invitation he needed arrived only after his "disappearance". According to his wife their post was blocked.

On 6 May 1995 Djamil Fahassi visited a friend who had a restaurant in the El Harrach neighbourhood in Algiers. At 3 p.m. he left the restaurant. In the street, two men in civilian clothes forced him to get into the car. According to witnesses, the car had been waiting there for several hours. They say that the vehicle had no problem getting through a police roadblock near the El Harrach jail.

Djamil Fahassi's wife was summoned four times in total for the investigation. This questioning never lasted more than an hour. No other member of the journalist's family nor any of his friends or colleagues have been questioned in the inquiry.

Yet, according to the justice ministry, a preliminary investigation into this affair was launched by the Algiers court. In July 1999 an ex-detainee told a friend of the family that "in 1997 [he was] in jail with the journalist Djamil Fahassi from *Chaine 3*".

Mohamed Hassaine
Mohamed Hassaine, local correspondent for the daily *Alger Republicain*, was kidnapped on 28 February 1994 at about 7.30 a.m. as he left his Larbatache home (wilaya de Boumerdès) to go to work. According to his friends and family, the four men who kidnapped Mohamed Hassaine belonged to armed Islamist groups. "Reformed" Islamists claim that he was murdered the same day.

Salah Kitouni
In December 1990, Salah Kitouni created in Constantine an Arabic-language weekly with a friend. This newspaper, *El Nour*, had Islamist leanings. In October 1992 his newspaper was suspended by the communication ministry.

On 1 July 1996 three plain-clothes' police officers went to Salah Kitouni's home and asked to see him. He was in Algiers at the time. On 3 July the journalist went to the police station to see why he was wanted. After being held for questioning for three days, he was released on 6 July with a new summons to return on 9 July. On 9 July he returned to the police station. The next day two police officers went with him to his parents-in-law's home to get "documents". The journalist barely had the time to reassure his wife and parents-in-law: "Don't be afraid, everything's alright". That was the last time his family saw him or had any news of him.

Salah's mother went many times to the police station for news of her son, in vain. In 1997 she was summoned to the police station where a secretary gave her a statement which specified: "Kitouni Salah, was arrested by our services and transferred to the territorial investigation centre of the 5th military region on 19 July 1996". The journalist's mother then sent two letters, dated 15 April and 30 December 1997, to the head of the 5th military region. She received no answer.

In August 2000, the journalist's wife was summoned by the police for a questioning of half an hour.

According to the lawyer of Salah Kitouni's family, there were no grounds for the journalist's arrest: "If he was guilty of anything he would not have gone to the police station of his own accord on his return from Algiers. And he would certainly not have returned when summoned on the 9th".

Conclusion and recommendations

The RSF delegation was constantly followed by unmarked police cars in Algiers and Constantine. This surveillance could only accentuate the pressure on all people likely to have information on the cases of these "missing persons".

The investigations carried out by RSF show that in the case of three journalists – Aziz Bouabdallah, Djamil Fahassi and Salah Kitouni – the Algerian judiciary has shown an interest in these cases only under pressure from national and international human rights organisations. There is no doubt whatsoever that the authorities are fully responsible for the "disappearance" of these three journalists. Everything points to the fact that the political leanings of two of them – Djamil Fahassi and Salah Kitouni – are the real reasons for them "disappearing". They were accused of sympathising with Islamist views. No serious investigation has been conducted to identify the persons responsible for these "disappearances". Moreover, the authorities' refusal to meet the RSF delegation attests to the indifference of the public authorities as regards the "missing persons" cases.

Reporters Sans Frontières wishes to remind the Algerian authorities that Algeria, as a member of the United Nations, is bound to comply with the declaration on the protection of all persons against forced disappearance, adopted on 18 December 1992 by the UN General Assembly.

The organisation asks the Algerian authorities for exhaustive and independent investigations to be conducted on the case of each "missing" journalist, and for their families to be informed of the result of these investigations.

RSF requests that the Algerian authorities collaborate with the United Nations work group on "forced disappearances" and with international NGOs.

RSF asks the European parliament to send a mission to Algeria to meet political authorities and the families, friends, colleagues and lawyers of "missing persons" and particularly of the five journalists cited in this report, as well as local human rights organisations.